

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JEFFREY ANCHOR, ET AL.,

Plaintiffs,

v.

**ORDER**  
04-CV-300S

DIAZ INTERMEDIATES CORP., ET AL.,

Defendants.

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1. On April 15, 2004, Plaintiffs commenced this environmental action against Defendants by filing a Complaint in United States District Court for the Western District of New York.

2. On August 1, 2005, Plaintiffs filed a Motion to Voluntarily Dismiss certain Plaintiffs in this action pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure. On September 1, 2005, this Court referred this motion to the Honorable H. Kenneth Schroeder, Jr., United States Magistrate Judge, for the issuance of a Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B).

3. On March 7, 2006, Judge Schroeder filed a Report and Recommendation recommending that Plaintiffs' motion be granted. On March 17, 2006, Plaintiffs filed Objections to the Report and Recommendation in accordance with 28 U.S.C. § 636(b)(1)(C) and Local Rule 72.3(a)(3) seeking clarification as to the identities of the individuals dismissed from this action. Defendants did not respond to Plaintiffs' Objections.

4. This Court has carefully reviewed Judge Schroeder's Report and Recommendation as well as the underlying motion papers and exhibits. In his Report and Recommendation, Judge Schroeder recommends that "voluntary dismissal be entered

against the 54 plaintiffs enumerated as “Group A Plaintiffs” at Dkt. #45, Exh. C.” (Docket No. 49, p. 7.) It appears as though a scrivener’s error has occurred because, as Plaintiff correctly notes, Exhibit C to Docket No. 45 does not contain a list of plaintiffs. It is Docket No. 46 that contains the list of “Group A Plaintiffs” referenced by Judge Schroeder. As such, this Court will accept Judge Schroeder’s Report and Recommendation with the only modification being that the citation to Docket No. 45, Exh. C on page 7 of the Report and Recommendation shall be accepted as a citation to Docket No. 46, Exh. C.<sup>1</sup>

IT HEREBY IS ORDERED, that this Court accepts Judge Schroeder’s Report and Recommendation (Docket No. 49) with the modification discussed above.

FURTHER, that Plaintiffs’ Objection (Docket No. 50) seeking clarification of the Report and Recommendation is GRANTED.

FURTHER, that Plaintiffs’ Motion for Voluntary Dismissal (Docket No. 38) is GRANTED.

FURTHER, that the individuals included as “Group A Plaintiffs” in Docket No. 46, Exhibit C are voluntarily dismissed from this action without prejudice.

SO ORDERED.

Dated: March 31, 2006  
Buffalo, New York

/s/William M. Skretny  
WILLIAM M. SKRETNY  
United States District Judge

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<sup>1</sup>This Court notes that Docket No. 46, Exh. C contains the same individuals to be dismissed as Plaintiffs list in their Objections.